

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No.: 4:13-cv-00914
)	
(1) CYNTHIA CLEMMONS,)	
(2) DONALD LEE MIDDLETON, JR., and)	
(3) JOHNSON COUNTY COLLECTOR'S)	
OFFICE,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, United States of America, for its Complaint, alleges the following:

1. The United States brings this civil action under 26 U.S.C. ("I.R.C.") §§ 7401 and 7403 to reduce to judgment certain tax assessments against Defendant Cynthia Clemmons, and to foreclose on the property located on B Highway in Holden, Missouri (the "Property").

Authorization

2. This action has been authorized by the Chief Counsel of the Internal Revenue Service and commenced at the direction of the Attorney General of the United States pursuant to I.R.C. §§ 7401 and 7403.

Jurisdiction and Venue

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1340 and 1345, and I.R.C. §§ 7402 and 7403.

4. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1396 because Cynthia Clemmons, whose federal tax liabilities are the subject of this action, resides in Odessa, Missouri, a city within this judicial district, and because the Property is located within this judicial district.

Parties

5. Cynthia Clemmons (“Clemmons” (formerly known as Cynthia Groves)) resides in Odessa, Missouri. Clemmons is a named defendant to this action because the United States seeks to reduce to judgment the unpaid federal income tax liabilities assessed against her for tax years 2006 through 2009 and because she holds a one-half interest in the Property.
6. Donald Lee Middleton, Jr. (“Middleton”) resides in Cataula, Georgia. He is a named defendant in this action because he holds a one-half interest in the Property.
7. Johnson County Collector has its principal place of business in Warrensburg, Johnson County, Missouri. It is a named defendant because it may claim an interest in the Property based on its real property tax liens for the 2009 through 2012 tax periods.

Subject Property

8. The United States seeks to foreclose on the real property located on B Highway in Holden, Missouri (the “Property”). The Property consists of approximately 140 acres of unimproved agricultural land and is legally described as follows:
 - a. Tract I: The 20 acres Northwest of Big Creek in the SW quarter of the SE quarter, and the East half of the East half of the SE quarter of the SW quarter of Section 28, Township 44, Range 28.

- b. Tract II: Northeast quarter of the Southwest quarter, and the Northwest Quarter of the Southeast Quarter and the West three-fourths of the Southeast Quarter of the Southwest quarter all in Section 28, Township 44, Range 28, about 110 acres. Total acreage covered is approximately 140 acres.
9. Defendants Cynthia Clemmons and Donald Lee Middleton, Jr. obtained a future interest in the Property on or around February 16, 2000, when Donald K. Middleton and Phyllis J. Middleton, then owners of the Property, conveyed the Property to Clemmons and Middleton Jr. According to the February 16, 2000, conveyance, Clemmons and Middleton Jr. would obtain a vested interest in the Property upon the deaths of both Donald and Phyllis Middleton.
10. Donald and Phyllis Middleton died on or around October 13, 2005 and March 7, 2001, respectively, vesting Clemmons and Middleton Jr. each with a one-half interest in the Property.

**Federal Income Tax Assessments
Against Cynthia Clemmons**

11. Clemmons self-reported her 2007 through 2009 federal income tax liabilities on her federal income tax returns (Forms 1040). On September 15, 2008, Clemmons consented to the IRS's assessment and collection of her 2006 federal income tax liability.
12. The IRS timely assessed the following federal income taxes, interest, and penalties against Clemmons for the 2006 through 2009 tax years:

Tax Year	Assessment Date	Balance as of July 10, 2013	Notice of Federal Tax Lien
2006	10/20/2008	\$6,022.86	4/22/2011
2007	5/11/2009	\$3,411.86	4/22/2011
2008	8/2/2010	\$1,648.44	4/25/2011
2009	3/14/2011	\$2,018.65	4/22/2011
Total		\$13,101.81	

13. Despite proper notice and demand for payment of the assessments described in paragraph 12, Clemmons failed to satisfy her federal income tax liabilities. As of July 10, 2013, Clemmons owed the United States \$13,101.81, including accrued interest and penalties, for the 2006 through 2009 tax years. Interest continues to accrue on Clemmons' outstanding tax liabilities.
14. Federal tax liens arose on the dates of assessment listed in paragraph 12 under I.R.C. §§ 6321, 6322, and 6323 because Clemmons failed to satisfy her federal income tax liabilities in full. These federal tax liens attach to all property and rights to property then belonging to Clemmons, including the real property described in paragraph 8, and to all of Clemmons' property and rights to property that came into existence after such assessment dates.
15. In accordance with 26 U.S.C. § 6323(f), the IRS filed Notices of Federal Tax Lien with the Johnson County, Missouri, Recorder of Deeds on the dates listed in paragraph 12.

**COUNT I: REDUCE ASSESSMENTS TO JUDGMENT
AGAINST CYNTHIA CLEMMONS**

16. The United States incorporates by reference the allegations in paragraphs 1 through 15 above.

17. The IRS timely assessed the 2006 through 2009 federal income tax liabilities in paragraph 12 against Cynthia Clemmons. As of July 10, 2013, Clemmons owed the United States \$13,101.81 in federal income tax liabilities, including interest and penalties.

WHEREFORE, the United States of America respectfully requests that this Court enter judgment in favor of the United States of America and against Cynthia Clemmons for unpaid federal income taxes in the amount \$13,101.81, plus statutory interest, penalties, and additions accruing after July 10, 2013, until the judgment is paid in full.

COUNT II: FORECLOSE ON THE PROPERTY

18. The United States incorporates by reference the allegations in paragraphs 1 through 17 above.

19. A tax lien in favor of the United States arose as of the date of the assessments and for the amounts in paragraph 12, pursuant to I.R.C. §§ 6321, 6322, and 6323. The federal tax liens with respect to the unpaid federal income tax liabilities set out in paragraph 12 attach to Clemmons' interest in all property and rights to property that she then owned or that she acquired thereafter, including the real property described in paragraph 8.

20. The United States is entitled to foreclose on the Property described in paragraph 8 to satisfy, in part, the unpaid balances in paragraph 12.

21. The United States seeks to enforce its federal tax liens against the Property, seeks an order that the Property be sold, and that the Court distribute the proceeds from the sale according to the validity and priority of the liens and claims of all parties to this action.

WHEREFORE, the United States of America respectfully requests that this Court enter judgment in favor of the United States of America and against Cynthia Clemmons as follows:

- A. Entry of a declaratory judgment that the federal tax liens described in paragraph 12 are valid;
- B. A determination and declaration of judgment that the federal tax liens identified in paragraph 12, above, attach to all of Clemmons' property and rights to property, including the Property described in paragraph 8;
- C. A Court order that the defendants set forth their claims to and interest in the Property;
- D. An order that the federal tax liens on the Property be foreclosed, that the Property be sold, that the Court determine the rights of the Parties to the proceeds of sale and the relative priorities of the Parties' claims to such proceeds, and to disburse those proceeds accordingly;
- E. Award the United States court costs; and

F. Such other relief that is just and equitable.

Dated: September 17, 2013.

TAMMY DICKINSON
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